

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ACHIQUE COYASO,)	CIVIL NO. 11-00267 JMS-RLP
)	
Plaintiff,)	FINDINGS AND RECOMMENDATION TO
)	GRANT IN PART AND DENY IN PART
vs.)	DEFENDANT BRADLEY PACIFIC
)	AVIATION INC.'S APPLICATION FOR
BRADLEY PACIFIC AVIATION,)	TAXATION OF COSTS
INC.,)	
)	
Defendant.)	
_____)	

FINDINGS AND RECOMMENDATION TO GRANT IN PART AND DENY
IN PART DEFENDANT BRADLEY PACIFIC AVIATION INC.'S
APPLICATION FOR TAXATION OF COSTS¹

Before the Court is Defendant Bradley Pacific Aviation Inc.'s Application for Taxation of Costs filed on May 18, 2012 ("Application"). Docket No. 77. Defendant requests \$7,509.44 in costs. See Ex. A to Mem. in Supp. of App. Plaintiff Achique Coyaso filed an Objection to the Application on May 24, 2012. Docket No. 80. This matter is suitable for disposition without a hearing pursuant to Rule 7.2(d) of the Local Rules of Practice of the United States District Court for the District of Hawaii. After a review of the parties' submissions and the relevant authority, the Court FINDS and RECOMMENDS that the Application be GRANTED IN PART and DENIED IN PART.

¹ Within fourteen days after a party is served with a copy of the Findings and Recommendation, that party may, pursuant to 28 U.S.C. § 636(b)(1)(B), file written objections in the United States District Court. A party must file any objections within the fourteen-day period allowed if that party wants to have appellate review of the Findings and Recommendation. If no objections are filed, no appellate review will be allowed.

BACKGROUND

On May 3, 2012, the Clerk entered judgment in favor of Defendant based on the court's order granting Defendant's motion for summary judgment as to certain claims and declining supplemental jurisdiction over the remaining state law claims. See Docket No. 74. The court denied Plaintiff's motion for reconsideration of that order. See Docket No. 79.

ANALYSIS

Rule 54(d)(1) of the Federal Rules of Civil Procedure provides that, "[u]nless a federal statute, these rules, or a court order provides otherwise, costs – other than attorney's fees – should be allowed to the prevailing party." Fed. R. Civ. P. 54(d)(1). Here, Plaintiff only objects to one cost requested by Defendant: the \$2,094.24 videographer fee for Plaintiff's deposition. See Obj. at 5. Defendant seeks to recover both the cost of the videographer and the cost for the stenographic transcript of Plaintiff's deposition. See Mem. in Supp. of App. at 4. "The cost of a stenographic and/or video original and one copy of any deposition transcript necessarily obtained for use in the case is allowable." LR54.2(f)(2); see also 28 U.S.C. § 1920(2). However, as other courts in this circuit have held, "[s]omething beyond convenience or duplication to ensure alternative methods for presenting materials at trial is needed to tax costs for both a printed and videotaped deposition

transcript." Nielsen v. Trofholz Tech., Inc., No. CIV. 2:09-960
WBS KJN, 2010 WL 5136164, at *2 (E.D. Cal. Dec. 9, 2010)
(citations omitted).

In support of its request, Defendant states that the purpose in videotaping Plaintiff's deposition was "to demonstrate to the jury that his account and demonstration of how a physical altercation occurred was not credible." Mem. in Supp. of App. at 4. As noted by Plaintiff, the jury would have been able to observe Plaintiff's live testimony at trial and would have been able to evaluate the credibility of his testimony during his examination and cross-examination. Obj. at 6. Given Plaintiff's availability to testify at trial, the Court FINDS that Defendant has failed to show why both the video and stenographic transcript was necessarily obtained for use in this litigation. The Court therefore RECOMMENDS that the Application be DENIED as to the \$2,094.24 in videographer fees for Plaintiff's deposition and be GRANTED as to the remaining \$5,415.20 in costs requested.

IT IS SO FOUND AND RECOMMENDED.

DATED AT HONOLULU, HAWAII, JUNE 5, 2012.




Richard L. Puglisi
United States Magistrate Judge

**COYASO V. BRADLEY PACIFIC AVIATION, INC., CIVIL NO. 11-00267
JMS-RLP; FINDINGS AND RECOMMENDATION TO GRANT IN PART AND DENY IN
PART DEFENDANT'S APPLICATION FOR TAXATION OF COSTS**